

# IKM TESTING AS TERMS AND CONDITIONS SERVICE WORK



- 1 Application**

Unless otherwise agreed in writing, these terms and conditions will apply to contracts concerning Service Works and where IKM Testing AS shall provide service personnel and specified service equipment.
- 2 Definitions**

**Affiliated Company** means in relation to an entity any enterprise directly or indirectly controlled by that entity, any enterprise that directly or indirectly controls that entity, or any enterprise under the same direct or indirect control as that entity.  
**Contractor** means IKM Testing AS  
**Contractor Group** means Contractor, his Affiliated Companies participating in the Service Work, Contractor's Sub-contractors and their contractors, and the employees of the aforementioned companies.  
**Customer** means the company, firm, person or corporation ordering the Service Work.  
**Customer Group** means the Customer, the Customer's client, their Affiliated Companies and their other contractors and subcontractors in as much as the abovementioned are involved in the project for which the Service Work is being performed, and the employees of the aforementioned companies.  
**Equipment** means Contractors service equipment.  
**Personnel** means Contractors service personnel.  
**Contract** means the contract for Service Work consisting of the Order as accepted by Contractor, these terms and conditions and any special conditions detailed in the Order and explicitly accepted by Contractor.  
**Service Work** means all work and services to be carried out by the Personnel as specified in the Contract, including the use and operation of the Equipment.  
**Order** means an individual purchase order or other written order or contract documents issued by the Customer for Contractor's provision of Service Work.  
**Site** means any work place where the Service Work is carried out and any place provided by the Customer for the storage of the Equipment during the performance of the Service Work.  
**Sub-contract** means an agreement between the Contractor and any Sub-contractor.  
**Sub-contractor** means any entity to whom Contractor has subcontracted any part of the Service Work or from which Contractor has purchased any material or services to be incorporated into the Service Work.
- 3 Basis of Contract**

Customer accepts that only the Contract as defined in clause 2 shall be the basis for the agreement concerning the Service Work, and that any use of or reference to other general or special terms and conditions by the Customer shall be deemed not to apply.
- 4 Prices**

Unless otherwise specified in the Contract, the prices shall be in NOK and do not include VAT or other taxes.  
Unless otherwise in the Contract, the agreed rates and prices do not include travel expenses, accommodation, transport or other direct extra costs incurred by Contractor in connection with the performance of the Services.
- 5 Mobilisation of Equipment and Personnel**

The Equipment will be mobilised Ex Works Contractor's address (Incoterms 2000) unless otherwise agreed. Mobilisation of Personnel will be as mutually agreed and specified in the Contract.
- 6 Payment**

The Equipment rates will be charged from mobilisation of the Equipment until the Equipment is returned DDU to same location (Incoterms 2000). Personnel rates will be charged from the agreed mobilisation date until the agreed demobilisation date or the actual demobilisation date, whatever is the later.  
All prices are quoted and payable in NOK. Unless otherwise agreed, Contractor will submit monthly invoices after the expiry of each month. Payment shall take place net within 30 days from receipt of invoice. In the event of overdue payment, interest will be charged from the due date until payment takes place in accordance with the Norwegian Act on Overdue Payment ('Forsinkelsesrenteloven').  
In the event that Customer disputes any amounts invoiced by Contractor, Customer shall pay to the Contractor the undisputed portion of the invoice and upon the resolution or determination of the dispute, the Customer shall pay the agreed balance with the addition of interests in accordance with the preceding paragraph.
- 7 Contractors responsibilities relating to the Services**

Contractor will provide Personnel and Equipment for the Service work based on the information and specifications received from Customer.  
The Contractor shall ensure that all Personnel are qualified, technically experienced and trained in the use of the Equipment and in all aspects of safety appropriate to the Service Work.  
Contractor shall provide the Equipment specified in the Contract for use by the Personnel. In the event that Contractor shall provide final documentation or similar this will be provided when all other Service Work has been completed. Contractor shall ensure that the Personnel give priority to safety in order to protect life, health, property and environment and shall cooperate with the Customer for all HSE issues. Contractor shall keep itself informed of, and shall comply with, applicable laws and regulations having jurisdiction over the Service Work.
- 8 Customers responsibilities relating to the Service Work**

Customer shall be responsible for the overall co-ordination and supervision of Contractor's Personnel in connection with Service Work at Customer's Site. Customer shall obtain all official permits and authorisations required at the Site and within Customer's area/country in connection with the Service Work and to enable Contractor's Personnel and Equipment to enter the Site. Customer shall take adequate and proper measures to store the Equipment and protect it from theft, damage and/or other risks, and Contractor shall be permitted at all responsible times and at any Site to inspect the Equipment.
- 9 Delay - Mobilisation**

Unless otherwise agreed, the following shall apply:  
If Contractor finds that it cannot mobilise Personnel and Equipment within the agreed mobilisation time, or if a delay on Contractor's part seems inevitable, Contractor shall inform Customer of this without undue delay, giving the reasons for the delay, and if possible, when new revised mobilisation time is expected to take place. Following any written notice by Contractor under this clause, Contractor shall be entitled to such extension in the time for performing the Service Work as being reasonable, provided the cause of the delay is not solely attributable to the Contractor.
- 10 Risk**

The Equipment shall remain the property of the Contractor at all times. Risk in the Equipment will pass to Customer when the Equipment is loaded onto the truck or other means of transport at Contractor's address and will remain with Customer until the Equipment is returned DDU to Contractor's address, unless when the Equipment is operated by the Personnel or otherwise solely under the Personnel's custody and control. Customer shall be liable for any loss of or damage to the Equipment while under Customer's risk, however caused, including theft, accidents, fire, etc.
- 11 Service Warranty**

The Service Work shall be carried out in accordance with generally accepted techniques and practices used in the industry. Contractor warrants that he has the necessary competence to carry out the Service Work in a professional manner and in accordance with applicable standards and norms, without giving any warranty, however, that any result envisaged by Customer will be achieved.  
Contractor shall without undue delay correct or redo any Service Work which is defective and not in accordance with the above, at no cost to Customer, provided that Contractor has been notified thereof before demobilisation of the Personnel. Contractor shall in no event be liable for any cost relating to dismantling of Customer equipment and installation thereof, board and lodging offshore, transportation of Equipment and Personnel to, from and at the Site, lifting operations, extra costs associated with warranty work performed below the water line, or any other such incidental or associated costs.
- 12 Quality Assurance and Health, Safety and Environment**

Contractor shall have an implemented and documented quality system in accordance with the requirements of ISO 9002 or equivalent and a system for health, environment and safety. Customer may conduct audits of such systems of Contractor and its Sub-contractors. Contractor shall comply with Customer's safety regulations when performing Service Work at Customer Site. If Contractor is bringing any chemicals or other hazardous substances into Customer's Site, these shall be labelled as required by Norwegian legislation. Data sheets shall be available at the place where the substance is used. Contractor shall without delay report to Customer's representative all accidents and near-misses occurred in carrying out the Service Work. Contractor is obliged to investigate all accidents and near-misses and to implement necessary corrective actions to prevent recurrence. Contractor shall supply required personal protection equipment for his employees when carrying out the Service Work.
- 13 Audit**

Contractor and its Sub-contractors shall keep full and accurate records pertaining to the Service Work and shall retain such records for a period of five years after completion of the Service Works. Customer and its representatives shall have the right to audit these records.
- 14 Insurance**

Contractor shall maintain all necessary insurances for the Service Work as prescribed by national law, including worker's compensation insurance and third party liability insurance.
- 15 Liability - Indemnity**

Contractor shall indemnify and hold harmless the Customer Group against any and all claims, losses, costs, damages and expenses in respect of injury to or sickness, disease or death of any person employed by the Contractor Group arising out of or in connection with the Contract from any cause whatsoever including but not limited to the negligence or breach of statutory duty of the Customer Group.  
Customer shall indemnify and hold harmless the Contractor Group against any and all claims, losses, costs, damages and expenses in respect of injury to or sickness, disease or death of any person employed by the Customer Group arising out of or in connection with the Contract from any cause whatsoever

including but not limited to the negligence or breach of statutory duty of the Contactor Group.

Except as set forth in clause 10 - Risk, Contractor shall indemnify and hold harmless the Customer Group from all claims, losses, costs, damages and expenses in respect of loss or damage to any property of the Contractor Group arising out of or in connection with the Contract howsoever caused, including where such loss or damage is caused by negligence of the Customer Group.

The Customer shall indemnify and hold harmless the Contractor Group from all claims, losses, costs, damages and expenses in respect of loss or damage to any property of the Customer Group arising out of or in connection with the Contract howsoever caused, including where such loss or damage is caused by the negligence of the Contractor Group.

**16 Pollution**

Contractor shall be liable for pollution originating from the Equipment, unless such pollution is caused by acts or omissions of Company Group's personnel. Save as set forth above, Customer shall defend, indemnify and hold harmless Contractor Group from and against all claims, losses, damages, costs, expenses and liabilities in connection with pollution which arise out of or relate directly or indirectly to the Contract and/or the Service Work.

**17 Consequential loss**

Subject to clause 8 above, neither party shall be liable to the other for any consequential losses or indirect losses, including without limitation, loss of profit, loss of goodwill, loss of revenue or turnover, or loss of opportunity arising out of or in connection with the Contract.

**18 Force Majeure**

Contractor shall not be considered in breach of any obligation under the Contract to the extent that fulfilment of the obligation has been prevented by Force Majeure. Force Majeure means any occurrence beyond Contractor's control, provided that he could not reasonably have foreseen such occurrence at the time of entering into the Contract and could not reasonably have avoided or overcome it or its consequences.

**19 Cancellation and Termination**

If the Service Work period has a fixed duration neither party shall be entitled to cancel the Contract before the expiry of that fixed period unless by agreement.

If the Service period does not have a fixed minimum duration either party may cancel the Contract upon giving to the other party any agreed period of notice.

Either party shall have the right to terminate this Contract by written notice if the other party: (i) becomes insolvent or stops its payments, or (ii) is in substantial breach of the Contract.

In the event of cancellation or termination, Customer shall pay the Contractor for all Service Work properly performed prior to the cancellation or termination.

**20 Assignment**

Neither party can assign the Contract to a third party without the prior written consent of the other party. Such consent shall not unreasonably be withheld.

**21 Limitation of liability**

Notwithstanding any of the provisions herein, Contractor's total liability for breach of Contract shall be limited to the total charges paid by Customer, but shall in no event exceed NOK 5 million

**22 Governing Law and Jurisdiction**

The Contract shall be governed by and construed in accordance with Norwegian law. Any dispute between the parties that cannot be solved amicably shall be settled by court proceedings according to Norwegian law at the Stavanger District Court, Norway, which the parties accept as their legal venue.